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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,423	07/07/1999	HIROSHI MURAKAMI	31050.7US01	6603

20985 7590 03/31/2005

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EXAMINER


MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	09/349,423	MURAKAMI ET AL.	
	Examiner	Art Unit	
	Robert W. Morgan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10/4/04 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/03 has been entered.

Notice to Applicant

2. In the amendment filed 12/22/03, the following has occurred: Claims 1, 2, 9, 19, and 35 have been amended. Now claims 1-35 are presented for examination.

Information Disclosure Statement

3. The information disclosure statement filed 10/4/04 and 10/15/04, has been entered and considered.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-8 and 35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-8 and 35 only recite an abstract idea. The recited steps of merely receiving from a user an expected distance of an intended trip, selecting a group of vehicles having charge levels which are adequate for covering said expected distance of an intended trip and allocating a vehicle having a second highest level of charge in the selected group if there is two or more vehicle in said group does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention is a method for scheduling travel on one or more charter transports having an available passenger accommodation.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-8 and 35 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, 9-24, and 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 5,812,070 to Tagami et al. in view of "Station Car EV Could Meet State Mandates" by Environmental Information Network, Inc. (hereinafter "EIN").

As per claim 1, Tagami et al. teaches a method for determining an order of allocating electric vehicle for use depending on different charge levels of the vehicles, the method comprising the steps of:

--the claimed selecting a group of vehicles having charge levels which are adequate for covering said expected distance of the specific, planned trip (see: column 8, lines 27-34);

Tagami et al. teaches a main port (MP, Fig. 4) that has a storage area, charging area, renting area and returning area as well as computer (60, Fig. 4) connected to user interface (48, Fig. 4) that allow potential users to request the usage of a vehicle (see: column 5, lines 2023, 46-53).

Tagami et al. fails to explicitly teach:

--the claimed receiving from a user an expected distance of an intended trip and selecting a group of vehicles having charge levels, which is adequate for covering said expected distance of an intended trip.

EIN teaches a station car concept for electric vehicles (EVs) where small EVs are

available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: paragraph 2). The Examiner respectfully submits that vehicle allocation is generally done according to user preferences such as size, color, price etc... and allocating a vehicle based on an estimated distance and time duration is merely selecting a different user preference. This allows the control center computer (60, Fig. 4) as described by Tagami to process the user information request and select the vehicle with enough charge to satisfy the intended trip.

One of ordinary skill in the art at the time the invention was made would have found it obvious to include renting vehicle based on user as taught by EIN within the vehicle sharing system as taught by Tagami et al. with the motivation of reducing the need for government to continually spend money on expanding our road systems and reducing the government subsidy of mass transit (see: EIN: paragraph 1).

As per the step of allocating a vehicle having a second highest level of charge in the selected group if there is two or more vehicle in said group. The Examiner respectfully submits with respect to the conditional statement “if there is two or more vehicle in said group”, it is noted that since prior art clearly allocates a vehicle when there is only one vehicle in the group, it is that the applied prior art need not be concerned about a condition that may not occur.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and

(iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered. As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

As per claim 2, Tagami et al. teaches a method for allocating one or more vehicle from a fleet of electric powered vehicle to one or more users, wherein each vehicle has a state of charge (SOC) at any given time, the method comprising:

--the claimed selecting a group of one or more vehicles from the fleet, where each selected vehicle has SOC sufficient to meet the travel request from the user (see: column 8, lines 27-34).

Tagami et al fails to teach:

--the claimed receiving a travel request from a user, wherein the travel request includes information concerning a specific, planned trip and the information is usable to determine the SOC necessary for that trip.

EIN teaches a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: paragraph 2). The Examiner respectfully submits that vehicle allocation is generally done according to user preferences such as size, color, price etc... and allocating a vehicle based on an estimated distance and time duration is merely selecting a different user preference. This allows the control center computer (60, Fig. 4)

as described by Tagami to process the user information request and select the vehicle with enough charge to satisfy the intended trip.

The obviousness of combining the teachings of EIN within the system as taught by Tagami et al. are discussed in the rejection of claim 1, and incorporated herein.

As per the step if the group includes more than one vehicle, then allocating the vehicle having the second highest SOC in the group for the user, and if the group includes only one vehicle, then allocating said one vehicle to the user. The Examiner respectfully submits with respect to the conditional statement “if there is two or more vehicle in said group”, it is noted that since prior art clearly allocates a vehicle when there is only one vehicle in the group, it is that the applied prior art need not be concerned about a condition that may not occur.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered. As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

As per claim 3, Tagami et al. and EIN teach the claimed step of receiving a travel request comprises receiving information associated with an expected distance of travel and wherein said step of selecting a group comprises selecting one or more vehicles, each with a sufficient SOC to travel the expected distance. This feature is met by the station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 4, Tagami et al. and EIN teach the claimed step of receiving information associated with an expected time period of use and wherein said step of selecting a group comprises selecting one or more vehicles, each with a sufficient SOC to travel for expected time period. This feature is met by the station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 5, Tagami et al. and EIN teach the claimed step of receiving a travel request comprises receiving information associated with an expected destination port and a expected distance of travel beyond a direct route to the destination port and wherein said step of selecting a group comprises selecting one or more vehicle, each with a sufficient SOC to travel the combined distance of the direct route to the destination port and expected distance of travel beyond the direct route system is met by the user's past usage records which indicate shortest and longest travel routes to expected destination when selecting the appropriate vehicle to perform the trip (see: Tagami et al.: column 8, lines 27-34). In addition, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations

and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 6, Tagami et al. teaches the claimed step of identifying the allocated vehicle to the user is met by the renting procedure in which the user's is given an IC card, which identifies the appropriate allocated vehicle (see: column 5, lines 27-34).

As per claim 7, Tagami et al. teaches the claimed step of identifying the allocated vehicle to the user comprises displaying identification information to the user on a display device is met by the user's IC card used for identification of the appropriate vehicle and the user interface (48) which has a display screen and keyboard (see: column 5, lines 41-45).

As per claim 9, Tagami et al. teaches a method for allocating one or more vehicle from a fleet of electric powered vehicle to one or more users, wherein each vehicle had a state of charge (SOC) at any given time, the method comprising:

- the claimed providing a user-interface terminal at one or more ports is met by the user interface (48, Fig. 4) at the main port (MP) (see: column 5, lines 34-36); and

- the claimed operating the computer to select a group of one or more vehicles from the fleet, where each selected vehicle has an SOC sufficient to meet the travel request information from the user is met by the computer (60, Fig. 1) selecting for the user a motor vehicle (C) with the sufficient charge to complete the desired trip (see: column 5, lines 60-67, column 6, lines 1-2);

Tagami et al. fails to teach:

- the claimed receiving travel request information from a user at a user-interface terminal a communicating the travel request information to a computer, wherein the travel request

includes information concerning a specific, planned trip and the information is usable to determine the SOC necessary for that trip.

EIN teaches a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: paragraph 2). The Examiner respectfully submits that vehicle allocation is generally done according to user preferences such as size, color, price etc... and allocating a vehicle based on an estimated distance and time duration is merely selecting a different user preference. This allows the control center computer (60, Fig. 4) as described by Tagami to process the user information request and select the vehicle with enough charge to satisfy the intended trip.

The obviousness of combining the teachings of EIN within the system as taught by Tagami et al. are discussed in the rejection of claim 1, and incorporated herein.

As per the step if the group includes more than one vehicle, then operating the computer to allocate the vehicle having the second highest SOC in the group for the user, and if the group includes only one vehicle, then allocating said one vehicle to the user. The Examiner respectfully submits with respect to the conditional statement “if there is two or more vehicle in said group”, it is noted that since prior art clearly allocates a vehicle when there is only one vehicle in the group, it is that the applied prior art need not be concerned about a condition that may not occur.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered. As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

As per claim 10, Tagami et al. and EIN teach the claimed step of receiving information associated with an expected distance of travel and wherein said step of operating the computer to select a group comprises selecting one or more vehicles, each with a sufficient SOC to travel the expected distance is met by the user's past usage record including the travel distance use to assist in selecting the vehicle with the appropriate amount of charge (see: Tagami et al.: column 5, lines 60-67, column 6, lines 1-2). In addition, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 11, Tagami et al. and EIN teach the claimed step of receiving travel request information comprises receiving information associated with an expected time period of use and wherein said step of operating the computer to select a group comprises selecting one or more vehicles, each with a sufficient SOC. to travel the expected distance is met by the user's past usage record including the travel distance and time periods in which the selected vehicle are used (see: Tagami et al.: column 5, lines 6-11). In addition, Tagami et al. and EIN teach a station car

concept for electric vehicles (EVs) where small EVs are available at transit stations and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 12, Tagami et al. and EIN teach the claimed step of receiving travel request information comprises receiving information associated with an expected distance of travel beyond a direct route to destination port and wherein said step of operating the computer to select a group comprises selecting one or more vehicles, each with a sufficient SOC to travel the combined distance of the direct route to the destination port and expected distance of travel beyond the direct route is met by the user's past usage record used to determine which vehicle is sufficiently charge to complete the shortest or longest route to and from desired destination (see: Tagami et al.: column 5, lines 60-67, column 6, lines 8-12). In addition, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuters who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 13, Tagami et al. teaches the claimed step of displaying vehicle identification information on a display device at the port facility from which travel information is received, identifying the vehicle allocated to the user is met by the user interface (48) which includes a display screen, keyboard, and IC slot that receives the IC cards which contain user's information determining which vehicle has sufficient charge to accommodate the desired trip (see: column 5, lines 60-63, and figure 4).

As per claim 14, Tagami et al. teaches;

--the claimed step of providing a user-interface terminal at one or more port comprises providing a user interface at a plurality of ports disposed at geographically remote location relative to each other is met by user interface (48) with a keyboard and display screen at the main port(MP) in different geographical regions (G) (see: column 4, lines 65-67, column 5, lines 40-45);

--the claimed each port that have a vehicle search group(VSG) in which more than one and less than all of the vehicle from the fleet may be located at any given time and step of operating the computer to select a group of one or more vehicles from the fleet comprises selecting a group from the VSG of the port from which travel information is received is met by the storage area (41) at the main port (MP) that holds vehicles in which the user information has selected to complete the desired trip(see: column 5, lines 60-67).

As per claim 15, Tagami et al. teaches the claimed VSG of any given port includes vehicles parked at a parking facility at the port is met by the vehicles parked in the storage area (41) at the main port (MP) (see: column 5, lines 27-31, 41-47).

As per claim 16, Tagami et al. teaches the claimed VSG of any given port further includes vehicle due to arrive at the port within a present time period is met by the returning procedure which include all vehicle returning to main port (MP) within a certain time period (see: column 5, lines 31-33).

As per claim 17, Tagami et al. teaches the claimed VSG of any given port further includes vehicle due to become sufficiently charged at the port within a present time period is met by the charge area (43) which includes all vehicles charging at the main port (MP) (see: column 5, lines 26-28).

As per claim 18, Tagami et al. teaches the claimed VSG of any given port further includes vehicle due to become sufficiently charged at the port within a present time period is met by charge area (43) which includes all vehicles charging at the main port (MP) (see: column 5, lines 26-28)

As per claim 19, Tagami et al. teaches a vehicle allocation system for allocating one or more vehicles from a fleet of electric powered vehicles to one or more users, wherein each vehicle has a state of charge(SOC) at any given time, the vehicle allocation system comprising:

--the claimed computer system coupled in communication with at least one user-interface terminal and programmed to respond to a travel request received from a user, for selecting a group of one or more vehicles from the fleet, where each selected vehicle has a SOC sufficient to meet the travel request from the user is met by the computer (60, Fig. 4) communication with user's interface (48) to select the appropriately charged vehicle to complete the desired trip (see: column 5, lines 62-67, column 6, lines 1-2).

Tagami et al teaches a user's interface (48) at the main port (MP) for receiving IC cards with user's travel information (reads on "one or more ports at geographically remote location relative to each other, each port having a user-interface terminal for receiving a travel request") (see: column 5, lines 40-49).

Tagami et al. fails to teach the claimed receiving a travel request from a user, wherein the travel request includes information concerning a specific, planned trip and the information is usable to determine the SOC necessary for that trip.

EIN teaches a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands,

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would rent the cars based on time and mileage (see: paragraph 2). The Examiner respectfully submits that vehicle allocation is generally done according to user preferences such as size, color, price etc... and allocating a vehicle based on an estimated distance and time duration is merely selecting a different user preference. This allows the control center computer (60, Fig. 4) as described by Tagami to process the user information request and select the vehicle with enough charge to satisfy the intended trip.

The obviousness of combining the teachings of EIN within the system as taught by Tagami et al. are discussed in the rejection of claim 1, and incorporated herein.

As per the step allocating the vehicle having the highest SOC in the group for the user, if the group includes more than one vehicle and to allocated the vehicle in the group, if the group includes only one vehicle. The Examiner respectfully submits with respect to the conditional statement “if there is two or more vehicle in said group”, it is noted that since prior art clearly allocates a vehicle when there is only one vehicle in the group, it is that the applied prior art need not be concerned about a condition that may not occur.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered.

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As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

As per claim 20, Tagami et al. teaches the claimed computer system comprises station computer system coupled in communication with a plurality of user-interface terminals at a plurality of said ports is met by the user's interface (48) communicating with the computer (60) at the main port (MP) (see: column 5, lines 40-53).

As per claim 21, Tagami et al. and EIN teach the claimed travel request comprises information associated with an expected distance of travel and wherein said group comprises one or more vehicles, each with a sufficient SOC to travel the expected distance is met by the user's IC card which holds the travel information that allows the user to select the vehicle with sufficient charge to complete the desired trip (see: Tagami et al.: column 5, lines 62-67). In addition, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 22, Tagami et al. teaches the claimed associated with an expected time period of use and wherein said group comprises one or more vehicle, each with a sufficient SOC to travel for the expected time period is met by the past usage record of the user stored on IC cards which hold the travel information and time period in which the vehicle are to be used(see: column 5, lines 62-67, column 6, lines 1-2).

As per claim 23, Tagami et al. and EIN teach the claimed travel request comprises information associated with an expected destination port and an expected distance of travel

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beyond a direct route to the destination port and wherein said group comprises one or more vehicles, each with a sufficient SOC to travel the combined distance of the direct route to the destination port and expected distance of travel beyond the direct route is met by the past usage record of the user stored on IC cards which hold travel information used in assisting the selection a vehicle sufficiently charged to complete the shortest or longest route to the desired destination (see: Tagami et al.: column 5, lines 62-67, column 6, lines 1-2). In addition, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

As per claim 24, Tagami et al. teaches the claimed port is provided with a display device for displaying identification information, identifying an allocated vehicle to a user is met by the user's IC card used for assistance and identification of the appropriate vehicle, and the user interface (48) which has a display screen and keyboard at the main port (MP) (see: column 5, lines 57-67).

As per claim 26, Tagami et al. teaches:

--the claimed each port having a vehicle search group(VSG) in which more than one and less than all of the vehicle from the fleet may be located at any given time is met by the collection and return points which have one or all vehicles (see: column 4, lines 6-10); and

--the claimed computer is programmed to select a group of one or more vehicles by selecting a group from the VSG of the port from which travel information is received is met by the storage area (41) at the main port (MP) that holds vehicles in which the user information has selected to complete the desired trip (see: column 5, lines 27-31 and 41-47).

As per claim 27, Tagami et al. teaches the claimed each port includes a vehicle parking facility at which one or more vehicles may be parked at any given time and the VSG of a given port includes vehicles parked at a parking facility at the port met is by the storage area (41) at the main port (MP) which contain fully and partially charged vehicles (see: column 5, lines 37-47).

As per claim 28, Tagami et al. teaches the claimed each port includes at least one vehicle charging facility and the VSG of a given port further includes vehicles due to become sufficiently charge at the port within a preset time period is met by the disposition center addressing the situation of all the vehicles with regards to charging capability and rate of charge at the respective collection and return points is met by the charge area (43) which includes all vehicles charging at the main port (MP) (see: column 5, lines 26-28).

As per claim 29, Tagami et al. teaches the claimed VSG of a given port further includes vehicle due to arrive at the port within a preset time period is met by the returning procedure which include all vehicle returning to main port (MP) within a certain time period (see: column 5, lines 31-33).

As per claim 30, Tagami et al. teaches the claimed each port includes at least one vehicle charging facility and the VSG of a given port further includes vehicles due to become sufficiently charged at the port within a preset time period is met by the disposition center addressing the situation of all the vehicles with regards to charging capability and rate of charge at the respective collection and return points is met by the charge area (43) which includes all vehicles charging at the main port (MP) (see: column 5, lines 26-28).

As per claim 31, Tagami et al. teaches the claimed plurality of vehicle subsystems associated on a one-to-one basis with vehicles from the fleet, each vehicle subsystem including

means for detecting the SOC of its associated vehicle and for transmitting information corresponding to the detected SOC to the computer system is met by the return area (50) receiving vehicles containing drive recorders (24) and communicating the travel information on the drive recorders to computer (60) (see: column 6, lines 57-62).

As per claim 32, Tagami et al. teaches the claimed request includes user identification information and wherein said computer system is programmed to further base the vehicle selection on the user identification information is met by the user IC card containing travel information and communicating that information to computer (60) to assist in selecting the appropriate vehicle for the desired trip (see: column 5, lines 46-55).

As per claim 33, Tagami et al. teaches the claimed computer system includes a storage of vehicle preference information associated with each user identification and is programmed to retrieve from storage vehicle preference information associated with user identification information received from a port terminal and to further base the vehicle selection on the vehicle preference information is met by the user's past usage record stored on IC card used to assist computer (60) in selecting a vehicle with sufficient charge to complete the desired trip(see: column 5, lines 46-55)

As per claim 34, Tagami et al. teaches the claimed vehicle preference information comprises information from the group consisting of. number of vehicle wheels, number of vehicle doors, preferred minimal SOC or range of SOC's, distance usually traveled, and usual duration of vehicle is met by computer (60) confirming the vehicles condition (wheels, doors, etc.), travel details (distance traveled), and the electric energy consumed by the battery (see: column 6, lines 57-60).

As per claim 35, Tagami et al. teaches a method for allocating one or more vehicles from a fleet of electric powered vehicles to one or more users, wherein each vehicle has a state charge (SOC) at any given time, the method comprising:

--the claimed selecting a first group of one or more vehicles from the fleet, where each selected vehicle has a SOC sufficient to meet the travel request from the user is met by the user's past usage records which indicate shortest and longest travel routes and expected destination when selecting the appropriate vehicle to perform the trip (see: column 8, lines 27-34).

Tagami et al. fails to teach:

--the claimed receiving a travel request from a user, wherein the travel request includes information concerning a specific, planned trip and the information is usable to determine the SOC necessary for that trip; and

--the claimed selecting a second group of N vehicles having the N highest SOC's of the vehicles within there first group, wherein N is predetermined positive integer greater than 1 and allocating to the user the vehicle having the highest SOC of vehicles in the second group but not the first group.

EIN teaches a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: paragraph 2). The Examiner respectfully submits that vehicle allocation is generally done according to user preferences such as size, color, price etc... and allocating a vehicle based on an estimated distance and time duration is merely selecting a different user preference. This allows the control center computer (60, Fig. 4)

as described by Tagami to process the user information request and select the vehicle with enough charge to satisfy the intended trip.

The obviousness of combining the teachings of EIN within the system as taught by Tagami et al. are discussed in the rejection of claim 1, and incorporated herein.

8. Claims 8 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,812,070 to Tagami et al. in view of "Station Car EV Could Meet State Mandates" by Environmental Information Network, Inc. (hereinafter "EIN") as applied to claim 1 above, and further in view of U.S Patent No. 5,726,885 to Klein et al.

As per claims 8 and 25, Tagami et al. and EIN teach a station car concept for electric vehicles (EVs) where small EVs are available at transit stations and commuter who drive home, to work, to shop or to run errands, would rent the cars based on time and mileage (see: EIN: paragraph 2).

Tagami et al. and EIN fail to teach displaying a map to the user and receiving user-selected map location corresponding to locations on the display map through a user-interface associated with the displayed map.

Klein et al. teaches a vehicle map display for the user to assist location and current position of the vehicle.

Although Tagami et al. and EIN fail to teach a map to the user and receiving the user-selected map location corresponding to location on the display map through a user-interface associated with the display map, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate a map system as shown by Klein et al.

with the of Although Tagami et al. and EIN with the motivation of assisting the user with their desired travel requirements (see: Klein et al.: column 7, lines 17-22).

Response to Arguments

9. Applicant's arguments filed 12/22/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 12/22/03.

(A) In response to the Applicant's arguments, (1) Tagami teaches away from the feature of allocating the second highest or N highest SOC vehicle. The Examiner respectfully submits with regard to the conditional statement of "allocating the vehicle having the highest or N highest SOC in the group for the user, if the group includes more than one vehicle and to allocated the vehicle in the group, if the group includes only one vehicle", it is noted that since prior art clearly allocates a vehicle when there is only one vehicle in the group (see: Tagami et al.: column 8, lines 27-34), it is submitted that the applied prior art need not be concerned about a condition that may not occur.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered.

As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

Furthermore, it is respectfully submitted that if Applicant's were correct in his assertion which Examiner does not admit, it has been held that prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

(B) With regards to Applicant's other argument, it is respectfully submitted that the Examiner has applied new prior art to the amended claims 1, 2, 9, 19 and 35 at the present time. As such, Applicant's remarks with regard to the application of Tagami et al and/or Klein et al. to the amended claim are moot in light of the inclusion of the teachings of EIN, addressed in the above Office Action.


Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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